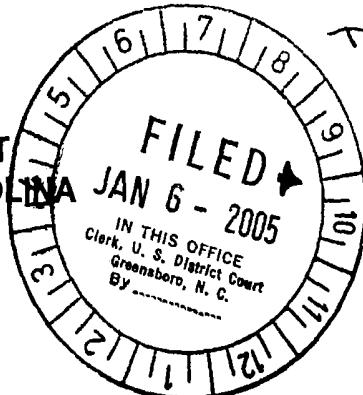


19.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION
FILE NO. 1:04-CV-42



JAMES GUSEH,
Plaintiff,

v.

NORTH CAROLINA CENTRAL
UNIVERSITY, et al.,
Defendants.

DEFENDANTS' MOTION TO STRIKE
AFFIDAVITS AND OTHER HEARSAY IN
PLAINTIFF'S RESPONSE TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

NOW COME defendants (herein also "NCCU"), pursuant to Local Civil Rule 7.3, Fed. R. Civ. P. 56(e) and Fed. R. Civ. R. 12(f), moving the Court to strike three statements or purported affidavits provided in Plaintiff's Response to the Motion for Summary Judgment, together with a number of inadmissible hearsay statements, all of which are particularized in the Memorandum of Law accompanying this Motion. In support of this Motion, defendants rely on the attached Memorandum of Law.

WHEREFORE, defendants respectfully request that the Court grant Defendants' Motion and:

1. Strike, as evidence for plaintiff, each of the documents and other hearsay items identified in the Memorandum of Law accompanying this Motion to Strike;
2. Strike each of the paragraphs from plaintiff's affidavits enumerated in the accompanying Brief, together with any hearsay exhibits mentioned on those pages in connection with such paragraphs;
3. Strike all corresponding references to such incompetent evidence, i.e., the stricken documents and stricken affiant paragraphs, from Plaintiff's Response; and
4. Grant defendants such other relief as may be appropriate.

This the 5th day of January, 2005.

ROY COOPER
Attorney General

Joyce Rutledge
Joyce S. Rutledge
Assistant Attorney General
N.C. Bar No. 16816

JPS II
John P. Scherer II
Assistant Attorney General
N.C. Bar No. 19259
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602
(919) 716-6920

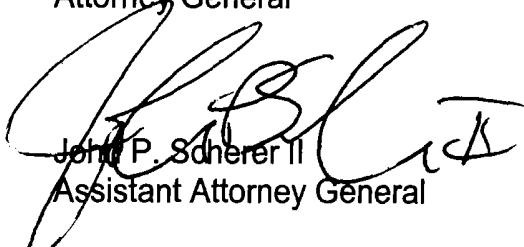
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **DEFENDANTS' MOTION TO STRIKE DOCUMENTS FROM PLAINTIFF'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT** was served upon counsel for plaintiff by depositing the same in the United States mail, first class postage prepaid, and addressed to:

Caitlyn T. Fulghum
The Fulghum Law Firm, P.L.L.C.
100 East Parrish Street, Suite 300
Durham, North Carolina 27701

This the 5 day of January, 2005.

ROY COOPER
Attorney General


John P. Scherer II
Assistant Attorney General